

EXHIBIT 7

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND
COMPOUNDING PHARMACY,
INC. PRODUCTS LIABILITY MDL No. 2419
LITIGATION

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1:13-md-02419-RWZ

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1 Q. Okay. Who handles the management for
2 Cumberland Medical Center?

3 A. For my endoscopy department, it's Pam
4 Kendrix.

5 Q. Do you work for Cumberland Medical Center
6 now?

7 A. Yes.

8 Q. You receive -- your paycheck says
9 Cumberland Medical Center on it?

10 A. Yes.

11 Q. Okay. Okay. I want to hand you a document
12 that's previously been marked as Exhibit 84 to the
13 Lister deposition. And if I mispronounce anyone's
14 names, just please correct me. It's not intentional.
15 It's through ignorance. So is it Calisher? Is that
16 how it's pronounced?

17 A. Yes.

18 Q. Have you seen this document before?

19 A. No.

20 Q. Have you flipped through to look at the
21 pages behind it, please. The question I'm going to
22 ask you once you finish looking through that is: Have
23 you seen this document before?

24 A. No, I have never seen this document.

25 Q. You've never seen it before?

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1 A. No.

2 Q. Okay. All right.

3 A. Not to my recollection.

4 Q. Okay. Let's talk about that time in
5 approximately 2009 when Calisher was hired. What was
6 your understanding of why Calisher was hired by
7 Specialty Surgery?

8 A. My understanding at that time, Calishers
9 was coming in to rewrite our insurance contracts and
10 manage the operation of the center.

11 Q. And by manage the operation of the center,
12 that would be payroll, that would be vendor payments,
13 that would be procurement, those sorts of things; is
14 that correct?

15 A. My understanding was when they come in, any
16 decisions as far as staff, changes in policy, vendors,
17 everything had to go through the Calishers.

18 Q. So let's talk specifically about
19 pharmaceutical products since that's kind of why we're
20 all here today. If you needed to order more of a
21 specific pharmaceutical product during your weekly
22 review of inventory, would you go to Calisher and say,
23 "We need to order X amount of this drug," or would you
24 just -- or how would that work? What would that
25 process be?

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1 A. When the Calishers come in, they done
2 inventory of everything we had in the center, and if
3 it was already an established drug, we did not have to
4 go through the Calishers.

5 Q. Okay. And how would it become an
6 established drug? Did they create a formulary that
7 listed what was already established that you could
8 order and what wasn't?

9 A. Yes.

10 Q. And was that formulary created by the
11 Calishers based upon what you were already using in
12 the facility?

13 A. Yes.

14 Q. Okay. I'm going to hand you what was
15 marked yesterday as Exhibit 91 and ask you to take a
16 look at SSC-00954. Is that the formulary -- and the
17 question I'm going to ask you as you look at that is:
18 Is that the formulary that Calisher created for
19 Specialty Surgery?

20 MR. GASTEL: Does anybody need a copy
21 of that?

22 THE WITNESS: Yes.

23 Q. (By Mr. Stranch) And so when this says
24 Afrin, that means that you had already been ordering
25 and stocking Afrin specifically in the facility and

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1 you were able to continue doing that without having to
2 come back to the Calishers; correct?

3 A. Yes.

4 Q. By the same token, Depo-Medrol is on here.
5 And so as long as you continued to order specifically
6 Depo-Medrol, you didn't have to go back to the
7 Calishers; correct?

8 A. Yes.

9 Q. MPA is not listed on here, correct, or
10 methylprednisolone acetate not listed on here;
11 correct?

12 A. Depo-Medrol and MPA is the same drug.

13 Q. And so it's your belief that there is -- so
14 it was your belief that you could order the MPA
15 without having to go to the Calishers; is that
16 correct?

17 A. Yes.

18 Q. And where did that understanding come from?
19 Did the Calishers tell you that?

20 A. I'm not sure where you're going from there.

21 Q. Well, I'm asking you. I mean, you have no
22 pharmaceutical training --

23 A. Yes.

24 Q. -- so how do you know there's no difference
25 between Depo-Medrol the branded drug and MPA

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1 preservative-free?
 2 A. Say that again.
 3 Q. Okay. Do you have any pharmaceutical
 4 training?
 5 A. No.
 6 Q. Okay. But you've stated here that there is
 7 no difference between Depo-Medrol and
 8 preservative-free MPA; isn't that correct?
 9 A. Yes.
 10 Q. Okay. Where does your understanding come
 11 that there's no difference between Depo-Medrol and MPA
 12 preservative-free?
 13 A. I discussed it with Dr. Lister and when I
 14 ordered Depo-Medrol, on the box below it, it says
 15 methylprednisolone acetate.
 16 Q. And does Depo-Medrol have a preservative in
 17 it?
 18 A. Yes, to my knowledge.
 19 Q. And the MPA that you later ordered from
 20 NECC was preservative-free; correct?
 21 A. Yes.
 22 Q. Okay. And would you agree with me that
 23 there's a difference between a pharmaceutical product
 24 that has a preservative in it and a pharmaceutical
 25 product that doesn't have a preservative in it;

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1 correct?
 2 A. The only difference is it doesn't have a
 3 preservative in it.
 4 Q. But that's a difference, isn't it?
 5 A. That's a difference. It's still the same
 6 drug.
 7 Q. So did you go to Calister [sic] before
 8 ordering MPA from NECC?
 9 A. Yes.
 10 Q. And why did you go to Calisher before
 11 ordering MPA?
 12 A. It was a new vendor and they had asked for
 13 patient names.
 14 Q. So what was it that triggered your review
 15 by Calister? Was it because there was a new vendor or
 16 was it -- was that solely the reason why?
 17 A. Like I said, it was a new vendor and NEC
 18 had asked for patient names.
 19 Q. Okay. And what about asking for patient
 20 names triggered a warning in your head?
 21 A. I had never been asked for patient names by
 22 another vendor.
 23 Q. Okay. And if Calister had told you when
 24 you contacted them about NECC being a new vendor and
 25 the patient names, if they had said, no, don't order

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1 from them, would you have ordered from NECC?
 2 A. No, sir.
 3 Q. So even if NECC hadn't asked you for the
 4 new names, if Calister had said, "We've done our due
 5 diligence and we don't think you should order from
 6 them," you would not have ordered from them; correct?
 7 A. No.
 8 Q. And Calisher must approve all new vendors;
 9 correct?
 10 A. Correct.
 11 Q. Did you rely upon Calisher to do due
 12 diligence into whether NECC was a reputable supplier?
 13 A. Say that --
 14 Q. Did you rely upon Calisher to do due
 15 diligence to determine whether NECC was a reputable
 16 supplier?
 17 A. I'm still not getting your question. I'm
 18 sorry.
 19 Q. Let me try by making a little bit of a
 20 statement and maybe that'll help explain --
 21 A. Okay.
 22 Q. -- what I'm doing.
 23 In doing procurement, no matter what,
 24 there's some vendors that are reliable --
 25 A. Uh-huh (affirmative).

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1 Q. -- that follow good policy and deliver
 2 their product on time.
 3 There are other vendors that are just
 4 complete shams and never deliver anything or don't
 5 deliver what you order, or there's defects in what
 6 their product are that they offer.
 7 And so when a new vendor comes in, do you
 8 rely on Calisher to do the underlying review to
 9 determine whether this is a reputable vendor that
 10 Specialty Surgery should be doing business with, or do
 11 you do that investigation yourself?
 12 A. It's a partnership. When -- we help each
 13 other out.
 14 Q. Okay. So did you do any investigation of
 15 NECC before deciding to place an order with them?
 16 A. Yes.
 17 Q. Okay. What did you do?
 18 A. Reviewed the material that Mario give me.
 19 I made sure they had a Tennessee license. Reviewed
 20 the Tennessee pharmacy board. Contacted Dr. Lister.
 21 I talked with the Calishers. And on the pamphlet that
 22 Mario give me, he says that they are USP 797
 23 compliant. So I got online to look what that was
 24 because I had never heard of it before.
 25 And then there was a -- there was another